



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, SEPTEMBER 22, 2015

The Council of the City of San José convened in Regular Session at 9:10 a.m. in the Council Chamber at City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:15 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54957 with respect to Public Employment/Public Employee Recruitment/Appointment: Department or Agency: Fire Department. Title: Fire Chief. (B) to confer with Legal Counsel pursuant to Government Code Section 54957 with respect to Public Employment/Public Employee Recruitment/Appointment: Department or Agency: Title: City Attorney; Name: Richard Doyle. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to initiation of litigation in three (3) matters. (D) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Noon; Amount of Money or Other Relief Sought: Administrative Appeal. (2) In re: Claim of Dessert; Amount of Money or Other Relief Sought: Administrative Appeal. (3) In Re: Claim of Luna; Amount of Money or Other Relief Sought: Administrative Appeal. (4) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M. Amount of Money or Other Relief Sought: Damages According to Proof. (5) IFPTE Local 21 v. City of San José; Names of Parties

CLOSED SESSION (Cont'd.)

Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (6) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (7) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (8) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (9) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (10) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928, H040979, H042074;

CLOSED SESSION (Cont'd.)

Amount of Money or Other Relief Sought: Challenge to Measure B. (14) People of the State of California, et al. v. City of San José, et al. Names of Parties Involved: The People of the State of California ex rel, San José Police Officers' Association, City of San José, City Council of San José; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (E) to confer with Real Property Representatives pursuant to Government Code Section 54956.8; Property: 88 East San Fernando Street, San José, California; Negotiation Parties: Jim Ortbal and Laura Wells for the City of San José; Richard Keit for the Successor Agency to the Redevelopment Agency of the City of San José; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values. (F) to confer with Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: City Designee Jennifer Schembri; Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150. (G) to confer with Legal Counsel pertaining to the Successor Agency to the Redevelopment Agency of the City of San José due to initiation of litigation pursuant to subsection (d)(1) of Section 54956.9 of the Government Code in one (1) matter.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 12:31 p.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chamber.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio (1:40 p.m.), Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

INVOCATION

Pastor Tony Williams, Maranatha Christian Center offered the Invocation. (District 8)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo, accompanied by the Second Grade Students, Horace Mann Elementary School, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CLOSED SESSION REPORT

City Manager Norberto Dueñas disclosed the following Closed Session actions of September 22, 2015:

- A. Public Employment/Public Employee Recruitment/Appointment Pursuant to Government Code Section 54957:

Department/Agency: Fire Department
Title: Fire Chief
Name: Curtis Jacobson

Council Vote:

Ayes: Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.
Noes: None.
Abstain: None.
Not Present: None.

CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing September 25, 2015 as “Native American Day” in the City of San José. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized September 25, 2015 as “Native American Day” in San José.

1.2 Presentation of a proclamation declaring September 23, 2015 as “Falls Prevention Awareness Day” in the City of San José. (Khamis)

Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Johnny Khamis recognized September 23, 2015 as “Falls Prevention Awareness Day” in San José.

1.3 Presentation of a commendation to the *Women’s International League for Peace and Justice Center* in San José in honor of their 50 year commitment to social justice. (Carrasco)

Mayor Sam Liccardo and Council Members Carrasco, Kalra and Peralez recognized and commended the Women’s International League for Peace and Justice Center.

CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0)

2.1 Approval of Council Minutes.

- (a) **Regular Minutes of June 2, 2015.**
- (b) **Minutes of the Mayor’s June Budget Message/Public Hearings of June 8, 2015.**
- (c) **Regular Minutes of June 9, 2015.**
- (d) **Special Closed Session Minutes of June 12, 2015.**
- (e) **Regular Minutes of June 16, 2015.**
- (f) **Regular Minutes of June 23, 2015.**
- (g) **Special Closed Session Minutes of June 26, 2015.**
- (h) **Special Closed Session Minutes of July 2, 2015.**
- (i) **Special Closed Session Minutes of July 8, 2015.**
- (j) **Special Closed Session Minutes of July 15, 2015.**

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: (1) Regular Minutes dated June 2, 2015, June 9, 2015, June 16, 2015 and June 23, 2015. (2) Minutes of the Mayor’s June Budget Message/Public Hearings dated June 8, 2015. (3) Special Closed Session Minutes dated June 12, 2015, June 26, 2015, July 2, 2015, July 8, 2015 and July 15, 2015.

2.1 (Cont'd.)

Referring to the June 23, 2015 Council Minutes, Council Member Raul Peralez asked Staff about Item 3.22 Priority Setting and Ranking and related his concerns pertaining to Massage Parlor Regulation, what can be considered, accomplished and enforced prior to the upcoming Super Bowl on February 7, 2016. City Attorney Richard Doyle responded that since the State Law has changed again he will review the City's current ordinance and meet with the Police Chief pertaining to Massage Parlor Regulation. City Attorney Doyle affirmed that there will be an ordinance in place by the end of the year.

Assistant City Manager David Sykes pointed out that the next quarterly update for the Priority Setting Session will be in November and there will be an information memorandum forthcoming on the Massage Parlor Regulation by the end of the month. Assistant City Manager Sykes additionally noted that a Staff person from the City Manager's Office has been recently assigned to work with the City Attorney's Office and the Police Department on this particular issue.

Council Member Pierluigi Oliverio expressed his appreciation to Council Member Raul Peralez for his advocacy on this issue and is looking forward to the information memorandum and update.

Vice Mayor Rose Herrera requested as Staff moves forward, her office would be pleased to work with whoever is involved with the Human Trafficking portion of the Massage Parlor Regulation.

Action: Upon motion by Council Member Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, the Council Minutes were approved. (11-0.)

2.2 Approval of Council Committee Minutes.

**(a) Rules and Open Government Committee Minutes of September 2, 2015.
(Mayor)**

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Action: Deferred to October 6, 2015 per City Clerk.

2.3 Mayor and Council Excused Absence Requests.

There were none.

2.4 City Council Travel Reports.

No Report.

2.5 Report from the Council Liaison to the Retirement Boards.

No Report.

- 2.6 Adopt a resolution to amend the City of San José Pay Plan effective September 22, 2015, to change the salary range and title for the classification Retirement Investment Analyst I/II U (7502/7503) (formerly Retirement Actuarial Analyst I/II). CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3, Personnel. (Human Resources)
(Deferred from 9/1/15 – Item 2.10)**

Documents Filed: Memorandum from Director of Human Resources Joseph Angelo, dated August 10, 2015, recommending adoption of a resolution.

Action: Resolution No. 77522, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Classifications”, was adopted. (11-0.)

- 2.7 Adopt a resolution to authorize the City Manager to amend purchase orders for Citywide Tree Management and Maintenance Services with West Coast Arborists (San José, CA), Commercial Tree Care (Santa Clara, CA) and A Plus Tree (Concord, CA), to increase the amount of total cumulative compensation by \$760,000 from \$1,535,000 to \$2,295,000, for the remainder of the initial term of the purchase orders, ending on February 28, 2016. CEQA: Exempt, Guidelines Section 15304(b) Minor Alterations to Land. File No. PP13-064 Citywide Tree Planting and Removal on Public Property. (Finance)**

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated August 31, 2015, recommending adoption of a resolution.

Action: Resolution No. 77523, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Amend the Purchase Orders for Citywide Tree Management and Maintenance Services With West Coast Arborists, Commercial Tree Care and a Plus Tree, To Increase the Amount of Total Cumulative Compensation by \$760,000 From \$1,535,000 to \$2,295,000 for the Remainder of the Initial Term Ending February 28, 2016”, was adopted. (11-0.)

- 2.8 Adopt a resolution to set a Public Hearing on Tuesday, November 17, 2015, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated August 31, 2015, recommending adoption of a resolution.

Action: Resolution No. 77524, entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing for the Approval of a Report of the Director of Finance on the Cost of Unpaid Sidewalk Repairs for November 17, 2015”, was adopted. (11-0.)

2.9 As recommended by the Rules and Open Government Committee on September 9, 2015:

- (a) Approve the POW/MIA Flag Raising Ceremony scheduled on September 18, 2015 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Herrera)
[Rules and Open Government referral 9/9/15 – Item G(1)(a)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 11, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The POW/MIA Flag Raising Ceremony scheduled on September 18, 2015 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.10 As recommended by the Rules and Open Government Committee on September 9, 2015, approve the receipt of gifts received in official capacity in accordance with Municipal Code Section 12.08.040. CEQA: Guidelines Section 15061(b)(3) No Significant Impact on the Environment. (Jones)
[Rules and Open Government referral 9/9/15 – Item G(2)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 11, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The receipt of gifts received in official capacity in accordance with Municipal Code Section 12.08.040 was approved. (11-0.)

2.11 As recommended by the Rules and Open Government Committee on September 9, 2015:

- (a) Approve the Vietnamese American Resolution Reception scheduled on October 20, 2015 as a City Council sponsored Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (M. Nguyen)
[Rules and Open Government referral 9/9/15 – Item G(1)(b)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 11, 2015, transmitting the recommendations of the Rules and Open Government Committee.

2.11 (Cont'd.)

Action: The Vietnamese American Resolution Reception scheduled on October 20, 2015 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.12 Adopt a resolution designating a 33-foot wide strip over two adjacent City-owned properties as additional public right-of-way to accommodate the widening of the east side of King Road, construction of a new traffic signal at the intersection of King Road and Salamoni Court, and the extension of the Upper Penitencia Creek Trail to the future Berryessa Bay Area Rapid Transit (BART) Station. CEQA: BART Extension to Berryessa Final and Supplemental EIRs, adopted on January 24, 2012 (Resolution No. 76126). Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated August 31, 2015, recommending adoption of a resolution.

Action: Resolution No. 77525, entitled: "A Resolution of the Council of the City of San José Designating as Public Right-of-Way a 3-Foot Wide Strip of City-Owned Property on the East Side of King Road from Approximately 180 Feet South of Salamoni Court to Approximately 120 Feet North of Salamoni Court", was adopted. (11-0.)

**2.13 As recommended by the Rules and Open Government Committee on September 16, 2015, approve the proposed designation of Vice Mayor Rose Herrera, as the voting delegate, and Council Member Magdalena Carrasco, as the alternate voting delegate at the October 2, 2015 Annual Business Meeting for the League of California Cities. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Manager)
[Rules and Open Government referral 9/16/15 – Item G(3)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 16, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The designation of Vice Mayor Rose Herrera, as the voting delegate and Council Member Magdalena Carrasco, as the alternate voting delegate at the October 2, 2015 Annual Business Meeting for the League of California Cities was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Norberto Dueñas (Verbal Report).

City Manager Norberto Dueñas reported that the City of San José, United States Citizenship and Immigration Services, San José Earthquakes and Citi Community Development hosted a naturalization ceremony at Avaya Stadium on Saturday, September 12, 2015. City Manager Dueñas added that on September 17, 2015, the City and nonprofit partners hosted a Citizenship Day Resource Fair for eligible citizenship applicants and on September 18, 2015 the first Immigrant Affairs Steering Committee was held.

3.3 Adopt resolutions:

- (a) **Authorizing the City Manager to execute an agreement with the State Board of Equalization and any other related documents, as necessary, for implementation of the Local Prepaid Telephony Services Collection Act related to the City's Utility Users Tax.**
- (b) **Authorizing the City Manager, the City Manager's designees, and MuniServices LLC to examine records of prepaid mobile telephony services and local charges (City's Utility Users Tax) collected by the State Board of Equalization.**

CEQA: Not a Project, File No. PP10-066(a), Agreements for purchased of supplies, equipment, or services with no changes in the physical environment. (Finance)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated August 31, 2015, recommending adoption of resolutions.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Raul Peralez and carried unanimously, Resolution No. 77526, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Agreement With the State Board of Equalization for Implementation of the Local Prepaid Mobile Telephony Services Collection Act" and Resolution No. 77527, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee and MuniServices LLC to Examine Prepaid Mobile Telephony Services Surcharge and Local Charge Records Collected by the State Board of Equalization", were adopted. (11-0.)

3.4 Adopt a resolution authorizing the City Manager or Director of Finance to:

- (a) **Select and purchase certain City property and liability insurance policies for the period October 1, 2015 to October 1, 2016 at a total cost not to exceed \$1,700,000, with the following insurance carriers:**
 - (1) **American Home Assurance Company for Property & Casualty Insurance, including Boiler & Machinery.**
 - (2) **Old Republic Aerospace, Phoenix Aviation Managers, for Airport Owners and Operators Liability including War Risks & Extended Perils Coverage (Primary and Excess) and Police Aircraft Hull & Liability including War Risks & Extended Perils.**

- 3.4 (a) (3) **The Travelers Indemnity Company of CT for Automobile Liability, or other insurance carriers that the City are currently in negotiations with, (Airport fleet vehicles including Shuttle Buses, Regional Wastewater Facility fleet vehicles, and Airport Shuttle Bus physical damage).**
- (4) **Indian Harbor Insurance Company for Secondary Employment Law Enforcement Professional Liability.**
- (b) **Select and purchase Government Fidelity/Crime Coverage for the period December 18, 2015 to December 18, 2016, at a cost not to exceed \$26,000.**
- CEQA: Not a Project, File No. PP10-066(a), Agreements for purchase of supplies, equipment, or services with no changes in the physical environment. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Julia H. Cooper, dated August 31, 2015, recommending adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee, Jamie L. Matthews, Chair, dated September 16, 2015, expressing concurrence with the Staff recommendations.

Action: Upon motion by Council Member Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77528, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or Director of Finance to Select and Purchase Property and Liability Insurance Policies for the Period October 1, 2015 to October 1, 2016 at a Cost Not To Exceed \$1,700,000 and to Select and Purchase Government Fidelity/Crime Coverage for the Period December 18, 2015 to December 18, 2016 at a Cost Not To Exceed \$26,000", was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 **Approve a five-year lease agreement with Camera 3 Entertainment, Inc. as tenant, for the use of approximately 7,850 square feet of retail space located at 288 S. Second Street in San José, at a rental rate of \$29,202 for the first year, \$29,640 for the second year, \$30,085 for the third year, \$30,536 for the fourth year, and \$30,994 for the fifth year. The total rental income for the five-year term of this lease is \$150,457. CEQA: Not a Project, File No. PP10-066(f) Agreements for the lease of equipment or space for the same use. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated August 31, 2015, recommending approval of a five-year lease agreement with Camera 3 Entertainment, Inc.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Raul Peralez and carried unanimously, a five-year lease agreement with Camera 3 Entertainment, Inc. as tenant, for the use of approximately 7,850 square feet of retail space located at 288 S. Second Street in San José, at a rental rate of \$29,202 for the first year, \$29,640 for the second year, \$30,085 for the third year, \$30,536 for the fourth year, and \$30,994 for the fifth year was approved. (11-0.)

- 4.2 **Approve a five-year lease agreement with FedEx Office and Print Services, Inc. as tenant, for the use of approximately 4,310 square feet of retail space located at 93 E. San Carlos Street in San José, at a rental rate of \$121,542 for the first year, \$121,542 for the second year, \$124,277 for the third year, \$127,384 for the fourth year, and \$127,384 for the fifth year. The total rental income for the five-year term of this lease is \$622,129. CEQA: Not a Project, File No. PP10-066(f) Agreements for the lease of equipment or space for the same use. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated August 31, 2015, recommending approval of a five-year lease agreement with FedEx Office and Print Services, Inc.

Motion: Council Member Raul Peralez moved approval of the Staff recommendations. Vice Mayor Rose Herrera seconded the motion.

Assistant Director of Economic Development Nanci J. Klein responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, a five-year lease agreement with FedEx Office and Print Services, Inc. as tenant, for the use of approximately 4,310 square feet of retail space located at 93 E. San Carlos Street in San José, at a rental rate of \$121,542 for the first year, \$121,542 for the second year, \$124,277 for the third year, \$127,384 for the fourth year, and \$127,384 for the fifth year was approved. (11-0.)

4.3 **Adopt a resolution:**

- (a) **Approving a Master Agreement for the Non-Exclusive Installation and Property Use of Telecommunications Facilities in the Right-of-Way and on City-Owned Property ("Master Agreement") for a 15 year term.**
- (b) **Approving a standard Site License Agreement for a five-year term with two additional five-year options to extend of up to five years each.**
- (c) **Approving a standard usage fee schedule based on a site's location within the City, equipment space requirements, and effective radiated power output of the antenna facility.**
- (d) **Authorizing the City Manager to execute the Master Agreements and Site License Agreements and all other documents necessary to complete a transaction.**

CEQA: Exempt, Guidelines Section 15303(d) Existing Facilities, File No. PP15-093. (Economic Development)

Documents Filed: Staff presentation dated September 22, 2015 summarizing the Master Agreement for Telecommunications Facilities.

Deputy City Manager/Director of Economic Development Kim Walesh presented introductory remarks. Office of Economic Development Real Property Agent Loren Haley provided the report.

4.3 (Cont'd.)

Council discussion ensued.

Motion: Vice Mayor Rose Herrera moved approval to defer this item one week with direction to Staff to return with a supplemental memorandum with further input and information. Council Member Donald Rocha seconded the motion.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Presenting comments and suggestions were Leon Beauchman, AT&T; John Newman, David Witkowsky, Joint Venture Silicon Valley; Molly Kales, Verizon Wireless; Blair Beekman and Perry Mistry.

Action: On a call for the question, the motion carried unanimously, the item was deferred to September 29, 2015. Staff was directed to return with a supplemental memorandum describing outreach, providing further input and information. (10-0-1. Absent: Carrasco.)

4.4 **Adopt a resolution directing the Interim Director of Housing to pursue steps necessary to investigate the potential utilization of the Plaza Hotel located in San José at 96 South Almaden Boulevard, currently owned by the Successor Agency to the Redevelopment Agency of the City of San José, for the purpose of housing the homeless. CEQA: Exempt, Section 15301 Existing Facilities, File No. PP15-078. (Housing) (Deferred from 6/16/15 – Item 4.2 et al and 8/25/15 – Item 4.1)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Members Magdalena Carrasco and Raul Peralez, dated September 15, 2015, recommending acceptance of the Staff Report with direction to the City Manager. (2) Replacement memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated September 8, 2015, providing an analysis of both acquisition or lease of the Plaza Hotel and adoption of a resolution. (3) Supplemental memorandum providing information regarding the cost of acquiring and operating the Plaza Hotel for a 5 year period. (4) Staff presentation dated September 22, 2015 summarizing Potential Utilization of the Plaza Hotel for Homeless Housing.

Interim Director of Housing Jacky Morales-Ferrand presented the report.

Motion: Council Member Raul Peralez moved approval the memorandum he cosigned with Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Magdalena Carrasco, dated September 15, 2015, as described in “Action” on Page 14. Vice Mayor Rose Herrera seconded the motion.

Homelessness Response Team Manager Ray Bramson, Successor to the Redevelopment Agency Managing Director Richard A. Keit and Assistant Director of Economic Development Nanci J. Klein responded to Council questions and concerns.

4.4 (Cont'd.)

Extensive Council discussion ensued.

Council Member Manh Nguyen expressed reservations and concerns regarding the site.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: The following speakers provided suggestions and comments for and against to the Potential Utilization of the Plaza Hotel for Homeless Housing. Rafael Oliveira, Taurus Brazilian Steakhouse; Ron Lucatelli, Caravan Lounge; Mark Rumoser, Silicon Valley Independent Living Center; Perry Mistry, Andrew Bigelow Silicon Valley De-Bug; Phil Mastrocola, Robert Aguirre, Phil Olmstead, Homeless Alliance; Moria Merriweather, Shaunn Cartwright, Scott Knies, San José Downtown Association; Toi Larks and Roy Lila.

Action: On a call for the question, the motion carried, the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Members Carrasco and Peralez, dated September 15, 2015, was approved, accepting the Staff report, with the City Manager directed to: (a) Pursue acquisition of the Plaza Hotel from the Successor Agency to the Redevelopment Agency and report back to Council on findings regarding costs and any obstacles to acquisition. (b) Explore prioritizing the placement of homeless veterans in a portion of the units at the Plaza Hotel and Resolution No. 77529, entitled: "A Resolution of the Council of the City of San José Directing the Interim Director of Housing to Pursue the Steps Necessary to Acquire the Plaza Hotel for Housing the Homeless and Return to Obtain Authorization to Acquire", was adopted. (10-1. Noes: M. Nguyen.)

4.5 **Accept the staff report on the proposed pilot transitional housing program for the homeless. CEQA: Not a Project, File No. PP10-069 (a), Staff Reports or Annual Reports that involve no approvals of any City actions. (Housing)**

Documents Filed: (1) Memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated September 3, 2015, recommending acceptance of the report. (2) Staff presentation dated September 22, 2015 describing the proposed Pilot Transitional Housing Communities for the Homeless. (3) Three letters from the public all dated September 22, 2015 providing comments on the proposed Transitional Housing Communities for the Homeless.

Interim Director of Housing Jacky Morales-Ferrand presented introductory comments. Senior Executive Analyst Patrick Heisinger presented the report.

Extensive Council discussion ensued.

Mayor Sam Liccardo opened the floor for public testimony.

4.5 (Cont'd.)

Public Comments: Providing comments and suggestions to the proposed Pilot Transitional Housing Communities for the Homeless were Gail Osmer, Shaunn Cartwright, Phil Olmstead, Homeless Alliance; Moria Merriweather, Robert Aguirre, Phil Mastrocola, Mansa Kannamovei, Anthony T. King and Sandy Perry, Affordable Housing Network.

City Attorney Richard Doyle and Deputy City Attorney Shasta Greene responded to Council questions and concerns.

Motion: Council Member Ash Kalra moved approval to accept the proposed Pilot Transitional Housing Communities for the Homeless. Vice Mayor Rose Herrera seconded the motion. On a call for the question, the motion carried unanimously. (11-0.)

Second Motion: Council Member Ash Kalra moved approval of the following direction to Staff: to return to Council within 30 days and provide the following the County's Report and the Staff Report on the County's Report; Provide a Staff Report on the Council's ability to support safe encampments and a report back on what Los Angeles did for its emergency declaration and what, if any, options and ramifications there would be if the City were to consider that. Council Member Donald Rocha seconded the motion.

A brief discussion followed.

Action: On a call for the question, both motions carried unanimously, the Staff Report was accepted. Staff was directed to return to Council within 30 days and provide the following: (1) The County's Report. (2) Staff Report on the County's Report. (3) Staff Report on the Council's ability to support safe encampments. (4) A report back on what Los Angeles did for its emergency declaration and what, if any, options and ramifications there would be if the City were to consider that. (11-0.)

- 4.6 (a) **Adopt a resolution authorizing the Interim Director of Housing, on behalf of the City, to negotiate and execute a purchase and sale agreement to acquire that certain real property located at 226 Balbach Avenue from the Successor Agency to the Redevelopment Agency of the City of San José for \$2,410,000 from the Low and Moderate Income Housing Asset Fund for a future affordable housing development.**
- (b) **Adopt the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Asset Fund:**
- (1) **Increase the appropriation to the Housing Department for Housing Loans and Grants by \$2,410,000.**
 - (2) **Decrease the Housing Project Reserve appropriation by \$2,410,000.**
- CEQA: Determination of Consistency with the Downtown Strategy 2000 EIR (Resolution No. 72767). (Housing/City Manager)**
(Deferred from 8/25/15 – Item 9.1)

Note: Item 4.6 was renumbered from Item 9.1.

4.6 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo and Council Member Raul Peralez, dated September 15, 2015, recommending approving the Staff recommendations with additional direction. (2) Replacement memorandum from Interim Director of Housing Jacky Morales-Ferrand and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated September 8, 2015, incorporating the due diligence analysis completed by the Housing Department to substantiate the acquisition of the site by the City, recommending adoption of a resolution and appropriation ordinance amendments. (3) Staff presentation dated September 22, 2015 presenting the Potential Acquisition of 226 Balbach for a Future Affordable Housing Development.

Interim Director of Housing Jacky Morales-Ferrand offered a brief report and responded to Council questions and concerns.

Motion: Council Member Raul Peralez moved approval of the memorandum he cosigned with Mayor Sam Liccardo, dated September 15, 2015, as described below in “Action”.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Shaunn Cartwright and Peter Allen spoke in support to the Staff recommendations.

Mayor Sam Liccardo urged Staff to reach out to the San José Downtown Association, and specifically Oracle and PWC.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo and Council Member Raul Peralez, dated September 15, 2015, was approved, accepting the Staff recommendations, with Staff directed to undertake thorough community outreach to neighboring businesses and organizations, including the Market/Almaden Neighborhood Association, the San José Downtown Association, and specifically Oracle and PWC. Resolution No. 77530, entitled: “A Resolution of the Council of the City of San José Authorizing the Interim Director of Housing to Negotiate and Execute a Purchase and Sale Agreement to Acquire 226 Balbach Street” and Ordinance No. 29615, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Low and Moderate Income Housing Asset Fund for Housing Loans and Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0-1. Absent: Herrera.)

PUBLIC SAFETY SERVICES

- 8.1 Adopt a resolution authorizing the City Manager or his designee to accept the 2014 Staffing for Adequate Fire and Emergency Response Grant in the amount of \$3,328,458 and to execute all documents necessary to effectuate the grant. CEQA: Not a Project, File No. PP10-067(c), Grant distribution that would not result in a physical change to the environment. (Fire)**

Documents Filed: Memorandum from Fire Chief Curtis Jacobson, dated September 11, 2015, recommending adoption of a resolution.

Action: Upon motion by Council Member Donald Rocha, seconded by Council Member Johnny Khamis and carried unanimously, Resolution No. 77531, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee to Accept Grant Funding from the U.S. Department of Homeland Security/Federal Emergency Management Agency Under the 2014 Staffing for Adequate Fire and Emergency Response Program In the Amount of \$3,328,458 to Restore 14 Firefighter Positions and to Execute All Documents Necessary to Effectuate the Grant", was adopted. (10-0-1. Absent: Herrera.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 (a) Adopt a resolution authorizing the Interim Director of Housing, on behalf of the City, to negotiate and execute a purchase and sale agreement to acquire that certain real property located at 226 Balbach Avenue from the Successor Agency to the Redevelopment Agency of the City of San José for \$2,410,000 from the Low and Moderate Income Housing Asset Fund for a future affordable housing development.**
- (b) Adopt the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Asset Fund:**
- (1) Increase the appropriation to the Housing Department for Housing Loans and Grants by \$2,410,000.**
 - (2) Decrease the Housing Project Reserve appropriation by \$2,410,000.**
- CEQA: Determination of Consistency with the Downtown Strategy 2000 EIR (Resolution No. 72767). (Housing/City Manager)**
(Deferred from 8/25/15 – Item 9.1)

Note: Item 9.1 was renumbered to Item 4.6. See Item 4.6 for Action.

ADJOURNMENT

Mayor Sam Liccardo adjourned the afternoon Council session at 6:34 p.m.

RECESS/RECONVENE

The City Council recessed at 6:34 p.m. from the afternoon Council Session and reconvened at 7:05 p.m. in the Council Chamber, City Hall.

Present: Council Members - Carrasco, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - Herrera. (Excused)

City Clerk Toni J. Taber, CMC read the requests for continuance of the applications. Upon motion by Council Member Johnny Khamis, seconded by Council Member Tam Nguyen and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Herrera.)

CEREMONIAL ITEMS

1.4 Presentation of a commendation to Dr. Armand Sanchez for his contributions for a healthier East San José community. (Carrasco)

Mayor Sam Liccardo and Council Member Magdalena Carrasco recognized and commended Dr. Armand Sanchez.

1.5 Presentation of a commendation to Manos Accelerator for receiving a Small Business Administration Growth Accelerator Fund Competition award for their work to create an entrepreneurial ecosystem in the Latino Community. (Mayor)

Mayor Sam Liccardo and Council Member Raul Peralez recognized and commended Manos Accelerator.

1.6. Presentation of a commendation to Cambrian Park Little League 12-and-Under All-Stars for their extraordinary team work, honorable sportsmanship, and recognition as Northern California Division 2 Champions. (Rocha)

Mayor Sam Liccardo and Council Member Donald Rocha recognized Cambrian Park Little League 12-and-Under All-Stars.

PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Pierluigi Oliverio, seconded by Council Member Johnny Khamis and carried unanimously, the Public Hearings on Consent Calendar were approved and the below listed actions were taken as indicated. (10-0-1. Absent: Herrera.)

- 11.1 (a) **Consideration of an ordinance rezoning the real property located at the southern Terminus of Dove Hill Road, approximately 1,890 feet southerly of Yerba Buena Road (3830 Dove Hill Road) from the A Agricultural Zoning District to the R-1-2 Single-Family Residence Zoning District on an approximately 3.34 gross acre site. CEQA: Addendum to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041). Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required. (Planning, Building, and Code Enforcement)**
C14-065 – District 8

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP14-065 dated September 1, 2015. (2) Proof of Publication of Notice of Public Hearing, executed on September 4, 2015, submitted by the City Clerk.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Sam Liccardo closed the Public Hearing.

Action: Ordinance No. 29616, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 3.34 Acres Situated at the Southern Terminus of Dove Hill Road, Approximately 1,890 Feet Southerly of Yerba Buena Road (3830 Dove Hill Road) From the A Agricultural Zoning District to the R-1-2 Single Family Residence Zoning District”, was passed for publication. (10-0-1. Absent: Herrera.)

- (b) **Consideration of an ordinance rezoning the real property located on the northeast corner of Lincoln Avenue and Savaker Street from the IP Industrial Park Coning District to the CIC Combined Industrial/Commercial Zoning on a 0.4-gross acre site. (Joseph and Nina Pavone Trustee, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041). Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required. (Planning, Building, and Code Enforcement)**
C15-031 – District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP15-031 dated August 27, 2015. (2) Proof of Publication of Notice of Public Hearing, executed on September 4, 2015, submitted by the City Clerk.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Sam Liccardo closed the Public Hearing.

11.1 (b) (Cont'd.)

Action: Ordinance No. 29617, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.4 Acres on the Northeast Corner of Lincoln Avenue and Savaker Street (590 Lincoln Avenue) from the IP Industrial Park Zoning District to the CIC Combined Industrial/Commercial Zoning District", was passed for publication. (10-0-1. Absent: Herrera.)

- (c) **Consideration of an ordinance rezoning the real property located on the northwesterly corner of McLaughlin Avenue and Cornelian Drive from the R-1-8 Single Family Residence Zoning to the PQP Public/Quasi Public Zoning District on 5.54-gross acre site. (Roman Catholic Bishop of San José, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041). Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required. (Planning, Building, and Code Enforcement)**

C15-035 – District 7

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP15-035 dated September 3, 2015. (2) Proof of Publication of Notice of Public Hearing, executed on September 4, 2015, submitted by the City Clerk.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Sam Liccardo closed the Public Hearing.

Action: Ordinance No. 29618, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 5.54 Acres on the Southwesterly Corner of McLaughlin Avenue and Carnelian Drive (1523 McLaughlin Avenue) From the R-1-8 Single Family Residence Zoning District to the PQP Public/Quasi Public Zoning District", was passed for publication. (10-0-1. Absent: Herrera.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 (a) **Certify the Environment Impact Report for the Santana Row Expansion Project, and adopt a resolution making certain findings concerning significant environmental impacts, mitigation measures and alternatives, adopting a mitigation monitoring and reporting program, and adopting a statement of overriding considerations, all in accordance with the California Environmental Quality Act (CEQA).**
- (b) **Consideration of an ordinance rezoning the real property located on the southeast corner of Winchester Boulevard and Stevens Creek Boulevard from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to expand the boundaries of a mixed-use development (Santana Row), increase the commercial square footage by 565, 641 square feet, allow an additional 47 residential units (for a total of 1, 229 units), with minor modifications to the existing use hours. (Federal Realty San Jose Town & Country Village LLC, Owner).**
- (c) **Adopt a resolution to approve the addition of Stevens Creek Boulevard and Monroe Street intersection to the protected intersection list pursuant to the provisions of the City's Transportation Impact Policy (City Policy 5-3).**

CEQA: Santana Row Expansion Project Environmental Impact Report to be considered for adoption by City Council. Planning Commission recommends approval (7-0-0). (Planning, Building, and Code Enforcement)

PDC13-050 – District 6

Documents Filed: (1) Memorandum from Mayor Sam Liccardo and Council Members Oliverio, Jones, Rocha and Khamis, dated September 18, 2015, recommending approval of the Staff report dated September 8, 2015, with direction as described in "Action" on Page 23. (2) Memorandum Director of Planning, Building and Code Enforcement Harry Freitas, dated September 8, 2015, transmitting the Planning Commission recommendation. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PD13-050 dated August 18, 2015. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated September 21, 2015, noting the receipt of three Zoning Protests.

Director of Planning, Building and Code Enforcement Harry Freitas presented the report.

Mayor Sam Liccardo opened the Public Hearing.

Seth Bland, Federal Realty described the merits of the project which included expanding the mixed-use development of Santana Row, increasing the commercial square footage, allowing an additional forty seven residential units and increasing the number of hotel rooms to six.

Public Comments: The following speakers expressed objection to the expansion and cited an insufficient EIR Report and Traffic Analysis, increased traffic, impacts to adjacent neighbors and other comments: Alan Berger, Villas at Santana Park Homeowners Association; Jim Toal, Bill Zahrt, Liz Van Den Abeelen and Marcie Soderquist.

11.2 (Cont'd.)

Mayor Sam Liccardo closed the Public Hearing.

Extensive Council discussion ensued.

Council Member Pierluigi Oliverio read the Statement of Overriding Considerations into the record, "The City Council to adopt a resolution as recommended by Staff making findings related to significant impacts, mitigation measures and alternatives and adopt a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program. The EIR identified project impacts, traffic, air quality and cumulative impacts to traffic as significant and unavoidable. This project has eliminated or substantially lessened all significant effects on the environment where feasible and the remaining significant unavoidable impacts to the project are acceptable in light of benefits to the project. The project will generate a substantial amount of new property and sales tax revenue annually for the City, County and State creating a stronger municipal tax base and promoting economic development in the area. The project will also create a significant number of new jobs. These elements will further several of the General Plan's Economic Development Goals and Policies, including the creation of more job opportunities. This project also fosters the General Plan's overarching goal of seeking a more balanced community and fiscal sustainability through the encouragement of greater jobs growth to balance existing residential development. This project will allow for shorter commutes and encourage reverse commuter trips by locating jobs closer to existing and planned housing stock within a mixed use development near existing, high frequency transit as well as a planned bus rapid transit line along Stevens Creek Boulevard. The project supports a number of the General Plan's Major Strategies: Focus Growth, Form Based Plan, Urban Villages, Fiscally Strong City and encourages smart growth by locating new office and commercial development that will complement existing land uses with a General Plan Growth Area, e.g. the Valley Fair Santana Row Urban Village. The project is committed to implementing a shuttle service to and from Diridon Station three times in the morning and evening. The project will implement a comprehensive Transportation Demand Management (TDM) Program for a shared parking arrangement between office and retail uses and make payments toward transportation improvements including multimodal improvements that will benefit the surrounding community in accordance with the City's Protected Intersections Policies. All of these benefits outweigh the significant, unavoidable environmental risks and impacts of the project identified in the EIR."

Motion: Council Member Pierluigi Oliverio moved approval of the memorandum he cosigned with Mayor Sam Liccardo and Council Members Jones, Rocha and Khamis, dated September 18, 2015, as described below in "Action" and including the Statement of Overriding Considerations he read previously. Council Member Chappie Jones seconded the motion.

Council Member Donald Rocha requested that the City Manager circulate an information memorandum providing history and information on jobs and housing.

11.2 (Cont'd.)

Council Member Chappie Jones expressed concern with the impacts of traffic and parking.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, Council Members Oliverio, Jones, Rocha and Khamis, dated September 18, 2015, approving the recommendations presented in the Staff Report dated September 8, 2015, with direction to the Administration that the \$3 Million protected intersection contribution be applied to improvements within the area affected by the project's traffic impact consistent with the City's Protected Intersection Policy, Resolution No. 77532, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Concerning Mitigation Measures and Making Findings Concerning Alternatives, All in Accordance With the California Environmental Quality Act, As Amended, In Connection with the Santana Row Expansion Project (SCH# 2013122059) For Which An Environmental Impact Report Has Been Prepared" and Resolution No. 77533, entitled: "A Resolution of the Council of the City of San José Approving Modifications to the List of Protected Intersections Pursuant to Council Policy 5-3 to Add the Intersection of Stevens Creek Boulevard and Monroe Street", were adopted, Ordinance No. 29619, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 42.53 Acres Situated on the Southeast Corner of Winchester and Stevens Creek Boulevards (Santana Row) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District", was passed for publication and the Statement of Overriding Considerations was incorporated into the record. (10-0-1. Absent: Herrera.)

11.3 **Consideration of an ordinance rezoning the real property located at the northwest corner of N. Capitol Avenue and Hostetter Road from the A(PD) Planned Development Zoning District to the CN(PD) Planned Development Zoning District to allow approximately 4,600 square feet of commercial uses that include: a convenience store, self-serve carwash tunnel and equipment room, and 6 fuel dispensers, on a a0.72 gross acre site (AU Energy LLC, Owner). CEQA: Exempt, Guidelines Section 15303(c) for New Construction of Small Structures. Planning Commission recommends approval (7-0-0). (Planning, Building, and Code Enforcement)**

PDC14-065 – District 4

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated September 4, 2015, transmitting the Planning Commission recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PD14-065 dated September 17, 2015. (3) Proof of Publication of Notice of Public Hearing, executed on August 7, 2015, submitted by the City Clerk.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Sam Liccardo closed the Public Hearing.

11.3 (Cont'd.)

Action: Upon motion by Council Member Manh Nguyen, seconded by Council Member Tam Nguyen and carried unanimously, Ordinance No. 29620, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.72 Gross Acres Situated at the Northwest Corner of North Capitol Avenue and Hostetter Road (1601 North Capitol Avenue) From the A(PD) Planned Development Zoning District to the CN(PD) Planned Development Zoning District", was passed for publication. (10-0-1. Absent: Herrera.)

11.4 **Consideration of a Planned Development Permit and Determination of Public Convenience or Necessity to allow the off-sale of alcohol in conjunction with a public eating establishment on 10.1-gross acre site, in the A(PD) Planned Development Zoning District Planned Development Zoning District, located at 181 East Tasman Drive. (Faz Oursohi, Owner). CEQA: Exempt, CEQA Guidelines Section 15301, Existing Facilities. Planning Commission recommends approval (7-0-0). (Planning, Building, and Code Enforcement)** **PD15-016 & ABC15-006 – District 4**

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated August 27, 2015, transmitting the Planning Commission recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PD15-016 and ABC15-006 dated August 18, 2015. (3) Two Proofs of Publications of Notices of Public Hearings, both executed on August 7, 2015, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Harry Freitas presented introductory remarks.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Sam Liccardo closed the Public Hearing.

Action: Upon motion by Council Member Ash Kalra, seconded by Council Member Donald Rocha and carried unanimously, Resolution No. 77534, entitled: "A Resolution of the Council of the City of San José Approving Subject to Conditions, A Planned Development Permit and Granting a Determination of Public Convenience or Necessity To Allow the Off-Sale of Beer and Wine in Conjunction with an Existing Public Eating Establishment, On A 10.01 Gross Acre Site Located at the Northwest Corner of Tasman Drive and Zanker Road (181 East Tasman Drive Suite 40)", was adopted. (10-0-1. Absent: Herrera.)

OPEN FORUM

Documents Filed: (1) Letter to the City of San José Officials from the Islamic Society of North America, dated September 12, 2015, bringing to the City's attention an upcoming visit by the Indian Prime Minister Narendra Modi and requesting that the City does not endorse his event at the SAP Center, San José, California. (2) Flyers dated September 22, 2015 submitted by Allison Williams.

Bhinder Singh, Sikh Temple; Peter Freedrick, Jada Bernard and Ahmed Sayed expressed opposition to the visit by Indian Prime Minister Narendra Modi to the Silicon Valley and urged the Council not to endorse this event at the SAP Center in San José.

Allison Williams voiced her objection to the Bike and Pedestrian Plan for Branham Lane because of the reduced parking for residents and that due diligence was not performed.

ADJOURNMENT

The Council of the City of San José was adjourned at 8:41 p.m. in memory of Mohan NS Kapoor, beloved community leader, entrepreneur and philanthropist. (Kalra)

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/09-22-15 MIN